

**TREASURY DOCUMENTATION****Subject**

Union Organization, Solicitations and Distribution, Employee Guidelines

**For**

EMPLOYEE HANDBOOK

**Also See**Civil Service  
Commission Rules,  
Section 6**Identification**ET-03034  
Policy**Effective**

11-1-2003

Page 1 of 7

**Replaces**

ET-03034 (4-1-95)

Departmental adherence to these guidelines is intended to reduce the number of complaints against the State Employer and Departments for prohibited (unfair labor) practices.

**Authority**

These guidelines are issued according to *Civil Service Commission Rules*, Section 6-1 of the Civil Service Employee-Employer Relations Rule. This section imposes upon the State Employer the obligation to represent state government as a whole with regard to labor relations responsibilities at the central level.

They are also issued according to authority conferred upon the Department of Management and Budget by Section 1 of Act No. 80 of the Public Acts of 1905, Sections 4 and 13 of Act No. 51 of the Public Acts of the First Extra Session of 1948, as amended, and Section 102 of Act No. 380 of the Public Acts of 1965, being Sections 19.141, 18.4, 18.13 and 16.202 of the Compiled Laws of 1948.

**Scope of Application**

These guidelines apply to all departments in the Executive Branch of Michigan State Government.

**Definitions**

1. "Distribution" in the labor relations context means the dissemination, posting or furnishing of union handbills, bulletins, brochures, flyers or other printed materials which describe a union, its organization, objectives, activities, affiliations, leadership, achievements or similar attributes, whether or not they solicit membership. (Contrast with "Solicitations.")
2. "Employee" means any person employed by the State of Michigan in the classified service in other than a managerial or confidential position excluded from "meet and confer" rights under the Civil Service Employee Relations Policy Rule. (Contrast with "Non-Employees.")
3. "Non-Employees" means persons who are:
  - A. Not employed in a position within the state classified service
  - B. On a leave of absence from such a position

- C. Employed in a position within the state classified service but who, at the time in question, are:
- (1) In approved leave status
  - (2) Not scheduled for work
  - (3) Scheduled for work on a different shift
  - (4) In an area not subject to the jurisdiction or control of the appointing authority under which they hold an appointment. (Contrast with “Employee.”)
4. “Non-Work Areas” means places where work activities are not normally conducted, such as lunch rooms, coffee rooms, lounges, parking lots, public entrances and lobbies. (Contrast with “Work Areas.”)
5. “Non-Working Time” means before and after scheduled work hours, or while on lunch period, wash-up time, and coffee/rest period during which the employee is relieved from the duty of performing assigned tasks, even if the employee must be in a state of readiness to respond to a crisis or emergency, and even if the employee is paid for such time. (Contrast with “Working Time.”)
6. “Organizing and Organizational Activities” means solicitation, distribution, picketing, rallies, meetings and similar activities which have the purpose of persuading employees to join or support a union or of persuading the employer to recognize the union for purposes of meeting and conferring on wages, hours, terms and condition of employment.
7. “Policy” means the Civil Service Commission’s Employee Relations Policy Rule approved in December 1981 which supersedes the August 1979 Policy of the Commission.
8. “Solicitation” in the labor relations context means efforts by a union or an employee to bring into membership or to seek support from persons who may not be members of the union. Solicitation includes:
- A. Verbal communication intended to directly or indirectly achieve such purpose.
  - B. The distribution of membership, authorization, showing-of-interest cards or any other material intended to achieve such purpose. It does not include the distribution or posting of handbills, bulletins, brochures, flyers or other similar printed materials. (Contrast with “Distribution.”)
9. “State Buildings” and “State Grounds” means buildings and lands dedicated and appropriate to the public use over which the State or one of its principal executive departments has jurisdiction or control, including buildings or parts of buildings and other real estate occupied by the State as Lessee.

10. “State Employer” means the Governor’s Designated Representative responsible for administering central level management obligations under the Policy.
11. “Union” means any organization or person responsible for representing employees in dealing with the employer concerning grievances, wages, hours, terms and conditions of employment.
12. “Work Areas” means places where work activities are normally conducted or where employees carry out assigned duties. (Contrast with “Non-Work Areas.”)
13. “Working Time” means time when the employee is scheduled to work and be at his or her work station. This does not include break/rest or lunch periods. (Contrast with “Non-Working Time.”)

### **Information**

Section 6-5.1 of the Civil Service Commission’s Employee-Employer Relations Rule guarantees the right of classified employees to organize and join, and the right to refrain from joining, a union. This section states that employees have the right to organize, form, assist, join, or refrain from joining employee organizations; and to engage in concerted activities for the purpose of meeting and conferring with the employer over wages, hours and all conditions of employment .

...

Sections 6-10 and 6-11 of the Rule implement this guarantee. Section 10 provides that it is a prohibited practice for an employer “to interfere with, restrain or coerce employees in the exercise of rights granted by (Section 6-5).” Similarly, employees are protected from such interference, restraint or coercion from other employees or unions under the provisions of Section 11.

Section 6-5.1 of the Rule also protects the classified employee’s right to organize. This Section prohibits an employer from discriminating against an employee who has formed, joined or chosen to be represented by a particular union. Section 6-5.1 also helps to protect the organizing rights of employees in unions not dominated, assisted or favored by an employer by prohibiting employer domination of or assistance to any union.

Section 6-8 of the Rule distinguishes between an exclusive representative union and limited recognition organizations. Although an exclusive representative organization has certain rights negotiated through a collective bargaining agreement, an unrepresented employee may join or affiliate with a limited recognition organization or an organization representing non-exclusively represented employees.

To ensure that the employee's right to join or affiliate with a union or employee organization is protected, limited recognition organizations and other employee organizations are to have no lesser degree of access to other state employees than exclusive representative unions. These organizations may enjoy some of the same rights and privileges extended to exclusive representatives.

For example, in the absence of an exclusive representative, the employer may not now discriminate among unions or groups or employees, on the basis of their recognition status, in:

1. Furnishing state facilities for organization meetings.
2. Providing bulletin board space.
3. Allowing agency communication channels to be used for organizational activities. Discrimination against any union of state employees in these matters will open the employer to charges of "interference with employee rights" to freely associate with, assist or join the union of their choice; will impair the employer's credibility in future labor relations; and will most likely precipitate prohibited practice charges being scheduled for hearings. Carefully avoid such uneven treatment.

### **State Employer or Management Limitations**

As a matter of policy the State Employer will not interfere with, restrain or coerce employees in the exercise of their rights granted under Section 5 of the Rule. The following actions will be regarded as interference with employee rights. Avoid them.

1. **Anti-Union Communications.** It will be regarded as a prohibited practice for an employer, and the supervisors who represent them, to:
  - A. Threaten employees with loss of jobs, individually or generally; or with loss of any benefit enjoyed, in order to influence them to reject or accept any union.
  - B. Threaten or actually carry out discipline, discharge, transfer or layoff because of employee support for any union.
  - C. Promise special favors or benefits to an employee for not joining, assisting, or voting for any union.
  - D. Solicit grievances during an organization drive and promise, overtly or subtly, to favorably consider the grievance.
  - E. Promise increased wages or benefits in general, or support for such improvements, if the employees as a group will reject any union.

- F. Interrogate employees during an organization drive about their personal support for a union, membership, or signing of an authorization card, or about others who support a union, attend union meetings or anything else about internal affairs of a union.
  - G. Threaten to refuse to meet and confer, as required by the Rule, even if a union is elected as an exclusive representative.
- 2. **Surveillance.** Employers, supervisors or their agents will not engage in surveillance of employees attending union meetings or other employee actions to determine their support for a union. Spying on union activities serves no legitimate management function. An employer may discipline employees for failure to perform job duties and need not establish that the employee is active in union affairs.
  - 3. **Discriminatory Assignment.** Employees and supervisors who represent them will not assign employees to work groups in order to isolate union supporters from worker opponents or from workers who are uninterested in or undecided about union affiliation.
  - 4. **Discriminatory Solicitation/Distribution Rules.** In the absence of an exclusive representative, the Department will not establish and enforce rules against soliciting employees and distributing literature on state property when such rules are not properly balanced against the right of employees to have open access to all union information.
  - 5. **Domination/Assistance.** Employers and supervisors who represent them will not grant financial or other economic support or assistance to any union.

### **Guidelines for Union Activities**

The courts and agencies administering labor relations statutes in both the public and private sector have drawn a number of distinctions between permissible and prohibited management restrictions upon employee and union activities during union organizing drives. These guidelines attempt to incorporate only those restrictions which are necessary to retain the State's ability to function efficiently and effectively in meeting the public's needs.

- 1. **Specific Limitations.** Solicitation and distribution of organizational literature and wearing of union insignia is permitted under the circumstances described in steps 3 and 4 below except when:
  - A. Solicitation, distribution or other organizational activity involves partisan political purposes in state buildings and on state grounds.

- B. Solicitation, distribution or other organizational activity causes litter.
- C. Literature or material contains scurrilous or libelous statements about management or insults and defames management, supervisors or employees.
- D. Solicitation, distribution or other organizational activity disrupts the employer's operations.
- E. Wearing outsized union insignia or ordinary insignia in an unusual manner in the work place distracts or impairs efficiency or discipline.

## **2. General Limitations.**

- A. State employees are not permitted in work areas of state buildings at any time other than their working hours unless the agency occupying or having control over the facility has authorized it.
- B. The Department may prohibit the use of lunch rooms, coffee rooms, other non-work areas and conference rooms by employees and unions if such prohibition is based on the need to maintain discipline or security. Such prohibitions must apply to all unions and all social/charitable organizations not sponsored by the state.
- C. Bulletin boards need not be made available to unions for solicitation or distribution purposes. If such facility has been made available to a union that is not an exclusive representative, one will be available to other unions upon their request and furnishing of necessary costs.
- D. No employee or union will use inter- or intra-departmental mails or telephone lines for union solicitation or distribution purposes.

## **3. Non-Working Time.**

- A. Employees may solicit memberships and support in the work areas in which they customarily perform their own job duties during the non-work time of all employees concerned.
- B. Non-employees may solicit and distribute in non-work areas during the non-work time of the employees concerned.
- C. This Department may establish prohibitions against solicitation and distribution in non-work areas where such prohibitions are necessary to maintain safety, security and discipline, and where such prohibitions are not discriminatorily applied against any union.

**Subject**

Union Organization, Solicitations and Distribution, Employee Guidelines

**Identification**

ET-03034

Policy

**Effective**

11-1-2003

Page 7 of 7

---

**4. Working Time.**

- A. Non-employees may solicit memberships and support and may distribute organizational literature in non-work areas during the work time of employees.
- B. Distribution of literature is subject to the limitations stated above.
- C. Employees are not permitted to solicit or distribute, even in non-work areas, during their own working time.
- D. This Department may establish prohibitions against solicitation and distribution in non-work areas where prohibitions are necessary to maintain safety, security and discipline; and where such prohibitions are not discriminatorily applied against any union.

**End**